IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No. 733-DB-2002

Date of Decision :- November 7, 2006

Dharambir and another ....APPELLANTS

VERSUS

State of Haryana ....RESPONDENT

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL
HON'BLE MR. JUSTICE BALDEV SINGH

Present:- Mr. Gur Rattan Pal Singh, Advocate
for the appellant.

Mr. Kulvir Narwal, Addl. Advocate General Haryana.

MEHTAB S.GILL, J.

This is an appeal against the judgment/order dated 4.9.2002/5.9.2002 of the Addl. Sessions Judge, Kaithal whereby he convicted Dharambir Singh son of Gaje Singh and Gaje Singh son of Kalia Ram under Sections 302 and 498-A IPC. They were sentenced to undergo rigorous imprisonment for life under Section 302 IPC and rigorous

imprisonment for two years under Section 498-A IPC. A fine Rs. 10,000/- and Rs.2,000/- each was also imposed. In default to further undergo rigorous imprisonment for 6 months under Section 302 IPC and rigorous imprisonment for 2 months under Section 498-A IPC.

The case of the prosecution is unfolded by the statement Ex.PF of Harphool Singh given to Rattan Singh, SHO Police Station, Pundri at Pharal Chowk, Pundri. Harphool Singh stated that he is a labourer. He had two daughters namely Santosh and Geeta. His elder daughter was married to Peeru son of Gaje Singh and younger daughter Geeta was married to Dharambir son of Gaje Singh. Marriage of Geeta was solemnized about 4 years back but Muklawa was performed 7-8 months prior to the occurrence. In the marriage and Muklawa, Harphool Singh had given gifts and dowry as per his capacity. About one month before the occurrence, Geeta along with her husband Dharambir came to his house in Village Pipal Theh. Geeta told her father Harphool Singh that his father-in-law was demanding Rs.20,000/-. This was told to him in the presence of his brothers Gaje Singh and Ram Phal. All three inquired from Dharambir about the demand of Rs.20,000/-. Dharambir also stated that Rs.20,000/- would have to be paid, otherwise he would not keep Geeta. On the next day, the three brothers along with Geeta and Dharambir came to Village Pai. Gaje Singh father-in-law of Geeta was called. He demanded Rs.20,000/- and if the amount was not given within a month then they would have to face the consequences. Harphool Singh and his brothers pleaded that they were not in a position to give this big amount.

They also pleaded with their son-in-law Dharambir, that they being poor persons could not arrange the money. On 3.8.2001 at about 10.30- 11.00 a.m., Harphool Singh's elder daughter Santosh gave a telephonic call to him and disclosed that Geeta had been killed in the early morning. Harphool Singh along with his brothers and some men and women of his community reached the house of Geeta at Village Pai. Geeta was lying dead in her room. A rope was hanging with a wire. Haphool Singh's son-in-law Dharambir and Dharambir's father Gaje Singh were missing from the house. Harphool Singh suspected that Gaje Singh and Dharambir had killed his daughter by either hanging her by a rope or by strangulating her. On the basis of this statement, FIR Ex.PF/2 was recorded. The special report reached the J.M.I.C., Kaithal on the same day at 7.45 p.m.

The prosecution to prove its case brought into the witness box Dr. R.P.Goyal as PW1, Constable Rajbir Singh as PW2, Lakshman Singh Draftsman as PW3, Ram Niwas Photographer as PW4, Constable Jaipal as PW5, Harphool Singh as PW6, HC Mahipal as PW7, Ramphal as PW8, Smt. Santosh PW9 and Inspector Rattan Singh as PW10.

Appellants produced Mussaddi Chowkidar as DW1.

Learned counsel for the appellants has argued that there was no common intention on the part of Gaje Singh to demand dowry or to commit the murder of his own daughter-in-law. As per the prosecution, Appellant Dharambir accompanied deceased Geeta to her parents' house. This showed that appellant Dharambir was in good terms with his wife.

Deceased Geeta apart from the complaining to her parents, did not complain about the demand of dowry or of any type of harassment to any other person of her family, though her real sister Santosh PW9 was married to the elder brother of appellant Dharambir, who was also the son of appellant Gaje Singh. It is a case of suicide. Geeta was a hot headed lady and could not cope up with the daily routine of the household.

Learned counsel for the State has argued that the registration of the FIR is prompt, this itself goes a long way in proving the case of the prosecution. Demand of Rs.20,000/- by the appellants was motive for the commission of the offence. The conduct of appellants, after the death of Geeta which took place in the house of appellants, was not natural. Instead of informing the police or the father, sister or some other relative of the deceased, they chose to run away. It was Santosh PW9, who gave a telephonic call to complainant Harphool Singh PW6 and informing her father about the murder. As per Dr. R.P.Goel PW1, the cause of death was not suicidal, but by strangulation. In their statements under Section 313 Cr.P.C., appellants have not taken the plea of alibi, but by producing Mussaddi DW1 Chowkidar of the village, they have tried to set up a plea of alibi.

We have heard the learned counsel for the parties and perused the record with their assistance.

Santosh PW9 gives corroboration to the statement of Harphool Singh PW6. Santosh PW9 was married to Peeru and deceased

Geeta was married to appellant Dharambir. Both Peeru and Dharambir are the sons of appellant Gaje Singh. If appellants Gaje Singh and Dharambir had not committed the murder of Geeta, Santosh PW9 would not have come into the witness box against her own father-in-law and brother-in-law. She came into the witness box and stated the truth. The conduct of the appellants was most unnatural. Murder of Geeta took place in the house of appellants Gaje Singh and Dharambir. Instead of informing about the death of Geeta to her father Harphool Singh PW6 or her sister PW9, they both fled away. Santosh PW9 on coming to know of the murder of her sister, informed Harphool Singh PW6. Dr. R.P.Goel PW1 in his testimony has stated, that he conducted the post-mortem examination on the dead body of Geeta. In his opinion, the cause of death was asphyxia due to throattling. In his cross-examination, he has categorically stated that in this case, there was no possibility of self hanging. This observation he made after examining the nature of injuries on the person of deceased Geeta.

Occurrence had taken place on 3.8.2001 at 11.00 a.m. in Village Pai. Santosh PW9, who was also in Village Pai, after seeing the murder of her sister committed in front of her by strangulation with a rope, telephoned her father PW6 and informed him about the murder of Geeta. Smt. Santosh PW9 is no other person than who was married to Peeru the other son of appellant Gaje Singh. The motive for commission of offence, as per the prosecution witnesses, was demand of Rs.20,000/- by appellant-Gaje Singh. Appellant Dharambir had told his in-laws that if a sum of

Rs.20,000/- was not given, serious consequences would follow. FIR Ex.PF/2 on the statement of Harphool Singh PW6 was recorded on the same day at 4.40 p.m. at Police Station Pundri and the special report reached the J.M.I.C., Kaithal on the same day at 7.45 p.m. There was no delay in the lodging of the FIR. This itself goes a long way in proving the case of the prosecution.

Appellants have taken the plea of alibi. They have miserably failed in proving that at the time when Geeta allegedly committed suicide as per their version, they were not at home. Mussaddi Chowkidar DW1 has stated in his testimony, that on 3.8.2001 at about 8-9 a.m., Santosh PW9 came to him and told him that the door of the house of appellant Dharambir was locked from inside. 50-60 persons gathered there. The door was broken. Geeta was found hanging. Appellant Dharambir had gone to some other village and appellant Gaje Singh was also not there. This testimony of Mussadi Chowikidar DW1 is a bundle of lies. The plea of alibi was not taken by the appellants in their statements under Section 313 Cr.P.C. All they have stated is that the deceased committed suicide. They have also stated that as long as Geeta stayed in their house, she stayed peacefully. A suggestion has been put to Harphool Singh PW6 and Ramphal PW8 that deceased Geeta was a hot headed lady and she did not serve her in-laws and her husband and also refused to cook meals for them. By this suggestion, it comes out that there was bickering going on in the house. Though Geeta was married 4 years earlier, but the Muklawa ceremony was performed about 7-8 months before her murder.

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We do not find any infirmity in the judgment of the learned trial Court.

Dismissed.

(MEHTAB S.GILL)
JUDGE

(BALDEV SINGH)
JUDGE

November 7, 2006
SKA

WHETHER TO BE REFERRED TO REPORTER? YES/NO